

HISTORY OF THE GARRICK CHAIR AT THE TC BEIRNE SCHOOL OF LAW

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I INTRODUCTION

The Garrick Professor of Law is the oldest of the named chairs¹ occupied by professors of law at the TC Beirne School of Law, University of Queensland.² This article sets out details about Garrick's life and achievements, the bequest by his daughter Katherine which established the grant to found the chair and some details of the professors who have since held that chair.

II JAMES FRANCIS GARRICK (1836-1907)³

James Francis Garrick was born on 10 January 1836 in Sydney, the second son of James Francis Garrick who migrated from England to Australia in the early 1830s to manage a flourmill. Like his elder brother, James was articled to a Sydney solicitor and he was admitted to practice in New South Wales as a solicitor in December 1860. Garrick left Sydney shortly afterwards and arrived in Brisbane on 21 January 1861 on the steamer 'Yarra Yarra'. In his affidavit for admission as a solicitor in Queensland a month after arrival, he states that he was employed in the capacity of clerk in the office of Charles Lilley Esquire, attorney and solicitor.⁴ Garrick was the fifth solicitor to be admitted in Queensland, conditionally on 26 February 1861 and absolutely on 25 February 1862.⁵

* QC, B.Com., LLB., PhD(law), Adjunct Professor, University of Queensland. Much of this article involved original research in archival material so there are a number of people and sources that need acknowledgement. The *Australian Dictionary of Biography Entry* by Professor Ross Johnston was the main source for Garrick's life and career. Much assistance was gained from phone calls and emails and I acknowledge assistance given by those who so contributed. The main information came from material held in the UQ Archives, in which helpful support was given by Megan Lyncham in 2005 and later from Olga Doubrovskaya in 2010; also material held in UQ Records Management Services, researched by its then manager in 2005, Marguerite Stringer. Other research and assistance was given by Pauline Line and Deborah Arthurs, UQ Law Library, by Aladin Rahemtula and Helen Jeffcoat, Queensland Supreme Court Library, and by Kathy Kohn of the Queensland Parliamentary Library.

¹ The other named chairs are Professor of Commercial Law (Ross Grantham), Professor of Maritime and Commercial Law (Nick Gaskell), Professor of Public Law (Suri Ratnapala), Professor of Common Law (John Devereux) and Sir Gerrard Brennan Professor of Law (vacant). Named chairs have an added prestige in academic circles over un-named ones.

² A short history of the Law School may be found in Michael White, Ryan Gawrych & Kay Saunders, *TC Beirne School of Law: 70th Anniversary* (2006). Pages 10-11 are the foundation for this article which has been further researched and now includes greater detail. The history of the University of Queensland is set out in Malcolm Thomis, *A Place of Light and Learning: The University of Queensland's First Seventy-Five Years* (1985).

³ Professor Ross Johnston, *Australian Dictionary of Biography*, n 1. available at <www.adb.anu.edu.au.biogs> at 6th Decmber 2010.

⁴ Barristers' admission records held by the Queensland State Archives.

⁵ Solicitors Roll, Queensland. The four solicitors admitted before him were: Charles Lilley, Henry Scott, Henry Boyle and H Hedmon (unclear in the Roll).

Once admitted he went into partnership with Charles Lilley,⁶ built up a flourishing practice and became solicitor to the Brisbane City Council. Garrick was also a member of the first Solicitors' Board.⁷ (His brother went on to practise in Christchurch, New Zealand.)

Garrick was a supporter of the system of amalgamation for a fused profession of barristers and solicitors as he argued that, through a scheme where a barrister could do the work of a solicitor, the quality of junior barristers improved since they could gain greater insight into the background of court actions.⁸

Garrick was active in government and represented the seat of East Moreton in the Legislative Assembly in 1867–68. In 1869 the Lilley ministry appointed him to the Legislative Council but soon after this Garrick left for London and after an absence of two sessions his seat was declared vacant. In London he took up the necessary further legal studies to be called to the Bar of the Middle Temple in 1873. Next year he returned to Brisbane and was admitted to the Queensland Bar where he was engaged in much prosecution work for the next three years.⁹ He was Queensland Crown Prosecutor of the metropolitan district in 1874–75, the central district in 1875–76 and the southern district in 1877. Garrick appears as counsel 13 times in cases reported in the Boer Qld Law Reports 1876–78.¹⁰ On 10 September 1880¹¹ he took Silk, the fifth on the Roll after Lilley, Pring, Blake, Griffith and Beor. He had, however, given up full-time practice before that.¹²

He had re-entered politics in 1877 through his old seat of East Moreton. In February 1878 he was appointed secretary for Public Lands and Mines in the ministry of John Douglas¹³ and in December he became Attorney-General, which office he held for two months before the government fell. From 1879 he was prominent in the Opposition, led by Samuel W. Griffith,¹⁴ in opposing the McIlwraith¹⁵ government until November 1883 at which time Griffith took over the government and appointed Garrick temporarily as Colonial Treasurer. In 1883–84 he was Postmaster-General, a post that customarily involved leadership of the government in the Legislative Council, to which he was duly appointed. He represented Queensland at the Intercolonial Conference of 1883.

⁶ Later Sir Charles Lilley, Chief Justice of Queensland. For details see *ADB Online*, see above n 3.

⁷ Helen Gregory, *The Queensland Law Society Inc: A History* (1991) 13. Also on the board was the Registrar of the Supreme Court, John Bramston, who was Robert Little's partner, and Eyles Irwin Caulfield Browne.

⁸ R Johnston, *History of the Queensland Bar* (1978) 28

⁹ *Ibid* 49.

¹⁰ *Re The Normanby Copper Mining Company (Limited)* (1876) 1 Qd R 118; *Ferrett v Barlow and Others* (1876) 1 Qd R 146; *Hobbs v The Municipality of Brisbane* (1876) 1 Qd R 158; *Re Harris* (1877) 1 Qd R 22; *Re Wildash and Kenneth Hutchinson, Insolvents – Ex Parte Miskin* (1877) 1 Qd R 247; *Re George Haughton* (1877) 1 Qd R 253; *Fraser v Harden and Lomax* (1877) 1 Qd R 210; *Byers and Others v Rolls* (1877) 1 Qd R 236; *Miskin v Hutchinson and Another* (on appeal) (1878) 1 Qd R 34; *Normanby Copper Mining Co Ltd v Corfield and Others* (1878) 1 Qd R 332; *Whitehead and Others v Sunley* (1) (1878) 1 Qd R 358; *Whitehead and Others v Sunley* (2) (1878) 1 Qd R 361; *Hunter v Sunley* (1878) 1 Qd R 374.

¹¹ Queen's Counsel Roll; entry on 9 September 1880; McPherson, *Supreme Court of Queensland*, 83.

¹² Johnston, see above n 8, 49

¹³ John Douglas was the founder of the 'Douglas' legal family. For details of the various entries as to the Douglas legal family see *ADB Online*, above n 3.

¹⁴ Sir Samuel Griffith, Premier, Chief Justice of Queensland, the first Chief Justice of the High Court. See *ADB Online*, *ibid*.

¹⁵ *ADB Online*, *ibid*.

In June 1884 Griffith appointed Garrick as Agent-General for immigration in London, where of course he had previously lived, while he was still holding a seat in the Executive Council as minister without portfolio. Garrick held this post in London until October 1895 apart from an interruption between June 1888 and December 1890.

In his first term in London he helped arrange to send to Queensland an average of 10,000 migrants each year, mostly from Britain but a few from Europe. Hopes of increased German migration were dashed in 1885 by German newspaper stories warning against Queensland, which Garrick tried to counter but with little success. In 1886 he unsuccessfully canvassed the possibility of other schemes of state-aided migration from Britain. He took part in settling the New Guinea question after the Queensland government's annexation of Papua in 1883 was disavowed by the British government although later it claimed and colonised it. With other Australasian Agents-General he was involved in numerous conferences and private interviews with the British Secretary of State for the Colonies. The latter rejected Garrick's suggestions for more immediate and effective action in New Guinea and the South Pacific and his protest against the deportation of French criminals to New Caledonia. He arranged with the Admiralty for the *Paluma* to survey more accurately the Queensland coast and secured other ships for his government. He attended the Postal Union Conference at Lisbon in 1885 and the International Congress at Brussels on customs tariffs in 1888. As an executive commissioner, he prepared Queensland's presentation for the Colonial and Indian Exhibition in 1886, and was one of Queensland's representatives at the Colonial Conference in 1887. He was appointed a Companion in the Order of St Michael and St George (CMG) in 1885 and in 1886 he was raised to the rank of Knight (KCMG).

In his second term as Agent-General, over the period 1890-95, Garrick completed the details of a scheme to send Italian migrants to the Queensland sugar areas of Bundaberg and the Herbert River as replacements for Kanaka labour. In 1891-92 he publicized a scheme of village settlement but deteriorating financial conditions in Queensland put an end to such plans. When the focus of attention in the Agent-General's office switched from immigration to commerce and trade, Garrick helped to find and promote new products for Queensland development with marketing of frozen beef as one of his main concerns. With the War Office he helped to complete arrangements for the defence of the Torres Strait, including armaments for Thursday Island. He was active in the Imperial Institute and a Queensland representative on its council. In 1890 he was invited but declined to stand for the British House of Commons as a Unionist. While in London, in September 1895 he was offered an appointment to the Queensland Supreme Court. He declined on the grounds of ill health, advising the Attorney-General by telegram.¹⁶ Two newspapers erroneously announced his actual appointment.¹⁷

He was a director of several companies and he remained in London until he died there on 12 January 1907 at the age of 71. The cause of death was a paralytic stroke, preceded by bronchitis.¹⁸ Following his death the *Brisbane Courier* published a description of Garrick's portrait by the late Mr R. J. Randall from which his appearance was described as a 'vigorous, brown-bearded man. The white hair and beard in the portrait give to the face a somewhat unfamiliar appearance, but there are in the eyes and mouth and the features generally many amiable and familiar traits which reveal our former Agent-General'.¹⁹

¹⁶ Johnston, see above n 8, 49; *The Sydney Morning Herald*, 17 September 1895.

¹⁷ *Brisbane Courier*, 13 September 1895; *The Sydney Morning Herald*, 14 September 1895.

¹⁸ 'The Late Sir James Garrick', *Barrier Miner*, 16 January 1907.

¹⁹ 'Portrait of Sir James Garrick', *The Brisbane Courier*, 24 January 1907.

He was survived by his wife Catherine, daughter of Dr JJ Cadell of Brisbane, whom he had married on 3 January 1865 and of which marriage there were three children.²⁰

There is no doubt his was a major and contributive career and he was described as a ‘brilliant lawyer, a well set up handsome man, cultivated and of great personal charm ... also a fine speaker, very courtly and diplomatic’.²¹

A *Establishment of the Bequest*

Sir James Garrick’s daughter, Katherine Cecie Garrick, left provision in her Will dated 22 November 1916 to endow a professorship and to create a tablet in the memory of her father in the following terms:

My Trustee shall hold one moiety of my Residuary Estate UPON TRUST to pay the income to my mother Dame Catherine Garrick if she shall survive me during her life and from and after the death of my said mother UPON TRUST to pay free of all duties to the Senate of the University of Queensland the sum of Fifty pounds to be expended in setting up a tablet in the buildings of the University to the memory of my late father Sir James Francis Garrick K.C.M.G. and the further sum of Ten thousand pounds free of all duties for the purpose of founding a Professorship either of law or medicine as may seem best to the University to be entitled the James Francis Garrick Professorship of Law or Medicine as the case may be...

Katherine died in England in 1921 and thereafter the University Senate and administration, after being advised of the terms of the Will by the London trustees, considered the matter from time to time. In establishing the new University of Queensland the Senate had resolved on 25 May 1910 that a formal Faculty of Law be established for the sole purpose of admitting selected graduates of other universities to degrees *ad eundem gradum*, but that was all. No law degree course had been established, but in light of the bequest, in March 1923, the Senate resolved that there was a need in Queensland for some legal education for police magistrates, clerks of petty sessions, mining registrars and the like so a chair should be established in law, rather than in medicine, and some legal subjects be taught as part of the Bachelor of Arts degree. On 29 June 1923 the University Senate resolved that applications be invited for the Garrick Professorship of Law which was to be established and this was duly done.²²

B *Bronze Plaques*

Before turning to the incumbents of the chair it is convenient to mention that, pursuant to the bequest providing funds for it, a bronze tablet was constructed and it was unveiled on 15 March 1926 by the then Lord Mayor of Brisbane, Alderman W A Jolly. After its unveiling an inaugural professorial lecture was given by the first incumbent of the Garrick chair, Professor Cumbrae–Stewart.²³ The tablet was fixed to the wall inside the entrance door to the University library, with the university then

²⁰ The three children were Katherine Cecie Garrick, James Cadell Garrick and Francis Cadell Garrick.

²¹ Johnston, *ADB* entry, see above n 3, 236.

²² Details are in the UQ Archives, File No.26/1249, including of the Will.

²³ Details are in the UQ Archives, File No.26/1249, including a long article on the event in *The Daily Mail*, 16 March 1926. Copies of the speech are held in the UQ Archives, Fryer Library and Law Library, entitled ‘Law and the City’. It was delivered in the hall of the Central Technical College, adjoining the UQ Library (which was then in George Street, Brisbane). Cumbrae-Stewart had previously been the Registrar of the University of Queensland.

being sited, of course, in Brisbane in the city near the Parliament at the eastern end of George Street, on the present site of the Queensland University of Technology. In the late 1930s the University started construction in preparation for its move to its present site at St Lucia but the site was requisitioned for the Army for World War II (1939-1945). After the peace in 1945 and after the University regained possession of the site progressively from the end of 1944, the law school moved to the Forgan Smith building.²⁴

The plaque was saved in the move and was erected by the University on the wall in the Forgan Smith building in the corridor in the law school on Level 3, near the current Sir Samuel Griffith law common room. It commemorates Katherine and her bequest.²⁵

III THE FIRST INCUMBENT: FWS CUMBRAE-STEWART (1926-1936)²⁶

As mentioned, in 1923 the Senate decided on a Chair in Law, in the Faculty of Arts, to be called the 'James Francis Garrick Professorship of Law', and the Senate appointed to it Francis William Sutton Cumbrae-Stewart from January 1926.²⁷ He was born in Canterbury, NZ, on 27 January 1865 and educated in Australia at the Melbourne and Geelong Grammar Schools.²⁸ He was a scholarly person and went on to Oxford University where he took a degree in modern history, was called to the Bar at the Inner Temple, London and returned to Australia in 1888. He practised at the Victorian Bar 1890-1892 and then as a country solicitor and was awarded a BCL from Oxford in 1897. He then moved to Brisbane where he practised at the Bar 1898-1903 before joining the firm of Thynne & Macartney as managing clerk. AJ Thynne was a member of the first UQ Senate (and later Vice-Chancellor 1916-1926) and no doubt this was some influence when Cumbrae-Stewart was appointed the first UQ Registrar on 5 August 1910.²⁹ In 1922 he was awarded an Oxford DCL with his thesis 'Actio Pauliana: its origin, development and nature'.³⁰

After his appointment as Garrick Professor of Law in 1926 Cumbrae-Stewart was Head of Law within the Faculty of Arts. He was made King's Counsel in 1927. In 1928 some of the students enrolled at the university petitioned the Senate to establish a full Faculty of Law but the Senate decided that the time was not then opportune for

²⁴ Further as to plaques, there are several plaques at the ground floor entrance to the Forgan Smith building commemorating those lost in war and also the occupation of the site by the defence forces. The main plaque records that General Sir Thomas Blamey GBE, KCB, CMG, DSO, ED, Commander-in-Chief Australian Military Forces, and his staff occupied the site from 1st August 1942 until 31st December 1944. There are also several smaller plaques on the walls of the Law School corridor on Level 3, that record aspects of this occupation of that area of Forgan Smith building by military personnel for that period.

²⁵ The plaque reads: 'This Memorial records a great benefaction from Miss Kate Cecie Garrick in memory of her Father Sir James Francis Garrick born 10th Jan.1836.Died 12th Jan.1908'. The plaque has Garrick's death in 1908, but this is an error and he definitely died in 1907. This is the same plaque which is shown in the book by White, Gawrych & Saunders, above n 2, 11, and it should be noted that the text in our book there records incorrect wording on this plaque.

²⁶ The dates of incumbency are set out in a Memo on the Chair by Glenda I Acland, University Archivist, dated 26 June 1997.

²⁷ *ADB Online*, see above n 3.

²⁸ Helen Gregory *Vivant Professores: Distinguished Members of the University of Queensland 1910-1940* (1987) 27.

²⁹ Gregory, see above n 7, 27-28.

³⁰ *ADB Online*, see above n 3.

that to be done,³¹ no doubt persuaded by the low demand for an actual law degree and the lack of funding for such a step. He resigned in 1936 and died in South Yarra, Melbourne on 24 March 1938. He was a voracious reader, moved widely in Brisbane literary, historical and scholarly circles and took an active part in many community organisations.³²

IV R YORKE HEDGES (1936-1946)

In 1936 the full law school was established from the proceeds of the T.C. Beirne bequest and Robert Yorke Hedges, the second holder of the Garrick Chair, became the dean and head of the new law school. He was born in Manchester, England on 6 August 1903 and entered Victoria University in Manchester graduating LLB in July 1924 with a distinguished academic record.³³ He continued with his academic career at Victoria University and also studied at Harvard 1926 and 1927, then in Geneva, Switzerland (gaining the *Diplôme de Hautes Études Internationales*) and returned to Manchester in 1928. He was then called to the Bar at Gray's Inn, London. He was awarded his LLM by Victoria University and then his LLD in 1932, becoming a senior lecturer in law there in 1935.

Hedges arrived in Brisbane in May 1936, was admitted to the Queensland Bar, and commenced his teaching duties. His application for Silk in 1940 was opposed by the Bar Association for his lack of court experience and it was not granted. After World War II broke out in 1939, he joined the British Army for duties with it during 1942-1944 as he had been recruited by it to advise upon international law matters. As an authority on the League of Nations he advised upon the Mandate systems as well as the forthcoming United Nations. He also advised upon treaties and issues relating to post-war military government of Germany.³⁴

He resigned from the University in 1945 to continue a legal career with the British army. He served as a judge in military administration in post-war years in Borneo and Sarawak. As Chief Justice of the Supreme Court of Sarawak, his decisions on belligerent occupation were reported in the 1961 volume of the *International Law Reports*. In January 1956 he was appointed a Judge of the Supreme Court of Nigeria and he died in England in 1963.³⁵

V AD MCGILL (1946-1948)

When Hedges resigned in 1945, World War II was only just over (1939-1945) and life was difficult in Australia as the war had been fought on many fronts and the country had been bombed by, and had been in danger of invasion from, the Japanese Imperial Forces. Most of the Australian work force, including academics and students, were re-establishing themselves back in civilian life and, further, the law school was gradually moving into the Forgan Smith building after the Army had vacated it. The strong inference is that the University management was expecting Hedges to return and continue in the Garrick chair and as head of school and when he resigned it was left with a difficulty. Alec Douglas McGill was a leading barrister and KC in Brisbane, then aged 60 years, and he volunteered his services and was appointed as the head of

³¹ Research File S130, especially the numerous Registrar's memoranda on the topic.

³² Gregory, see above n 7, p 29.

³³ Ibid 48.

³⁴ For further details see the book *International Organisations* (1935).

³⁵ Gregory, see above n 7, p 50.

school and to the Garrick Chair from 1946, which he held until 1948, which gave two years to the University to reorganise itself with senior law staff.

McGill was born on 2 January 1886 at Ipswich, Queensland, was dux of the Ipswich Grammar School in 1904 and graduated BA(Hons) from Sydney University in 1907.³⁶ He then taught for several years and returned to Queensland in 1910, read for the Bar and was admitted on 6 June 1911.³⁷ He was active on many fronts in legal and community activities and his practice steadily grew, including a considerable amount of government work. He stood for Parliament unsuccessfully and was president of the Progressive National Party. He was appointed a King's Counsel on 15 June 1934 and in 1939 offered a judgeship which he declined.³⁸

McGill was on the UQ Senate from 1935 and its Deputy Chancellor from 1946 and, as mentioned, he accepted the Garrick Professorship in law in 1946 to assist the University in a difficult time. No doubt he continued his legal practice and did his share of teaching duties part-time as much of the teaching was done by practising barristers at that time.³⁹ He resigned from the positions of Garrick chair and head in 1948 and his outstanding career continued, but he died suddenly from heart disease on 6 July 1952 in South Brisbane. His grand-nephew, His Honour Judge John D McGill SC, is a judge of the Queensland District Court.

VI WNL HARRISON (1948-1966)

In 1948 Professor Walter Norwood Leslie Harrison became Garrick Professor of Law and also dean and head of the department of law. He was born on 28 October 1904 at Ravenswood, North Queensland, received his later school education at the State High School and All Souls School, Charters Towers and entered St John's College, UQ, in 1923 for his BA in history, graduating in 1926. He was selected as the Rhodes Scholar for Queensland that year and graduated from Oxford in 1929 with first class honours in jurisprudence.⁴⁰ Harrison was not only an outstanding scholar, he was also a superb athlete and, apart from winning many trophies in Queensland, was awarded his full blue for athletics at Oxford.

On returning to Australia he taught in Armidale, NSW and then was admitted to the Queensland Bar in 1933, supplementing his barrister's income with income as foreign editor of the *Brisbane Telegraph* newspaper, broadcasting and also teaching at UQ. He accepted a full time position as lecturer in law and social sciences at UQ in 1939. In 1948 he was appointed as the fourth Garrick Professor of Law following on from McGill, also becoming the dean and head of department of law. He retired for health reasons in 1964, having steered the law school through a large expansion and maturation, having helped the UQ generally with legal advice and drafting and having been particularly well regarded for his initiative in assisting the Articles Clerks course in 1962 by extending the law school teaching to them. After retirement he continued with lecturing in legal history and land law until May 1966 and he died in July of that year.⁴¹ His son, Lister Harrison, is a Queen's Counsel at the Queensland Bar.

³⁶ See also, *Who's Who in Australia*, 1941, under his entry.

³⁷ *ADB Online*; see above n 3.

³⁸ *Ibid.*

³⁹ Prominent barristers who taught at the law school after their return from the war were Sir Harry Gibbs, Sir Walter Campbell, Hon Peter Connolly and many others.

⁴⁰ Facts from UQ Library, 'Professor Walter Norwood Leslie Harrison'.

⁴¹ *Ibid.*

VII EI SYKES (1966-1967)

Edward Irving Sykes was appointed Professor of Public Law and head and dean of the department from 1 January 1962 although the Garrick chair stayed with Harrison until his death on 16 July 1966.⁴² The Garrick chair was then transferred to Sykes at his request with the Vice-Chancellor's approval given for it on 2 August 1966.⁴³

Sykes was born on 15 June 1910 in Gympie, Queensland and took his degree at the UQ and then Melbourne University, was admitted to the Bar in Victoria in 1938 and in Queensland in 1939. His eventual degrees were BA and LL.D. His ADB entry does not show his career during the war but he was a lecturer at UQ law school 1948-1951; senior lecturer 1951-1958; Reader 1958-1961 and Professor of Public Law 1962-1967. As mentioned, he was awarded the Garrick chair in 1966 but by then Sykes wished to leave for the University of Melbourne where he became Professor of Public Law.⁴⁴

Professor Hyman Tarlo⁴⁵ was appointed the acting head and dean of the department and Sykes' resignation, previously offered but delayed until 11 May 1967 for the new head to settle in, then took effect,⁴⁶ after which the Garrick Chair lapsed.

In November 1968 the UQ Senate decided on a fourth chair in law and advertised for a Garrick Chair of Law associated with the Headship of the Department of Law, to which the existing three chairs could apply. Controversy arose, as to which see below, and after a report was made by the president of the Professorial Board (Professor E C Webb) the Senate resolved that it would go ahead as proposed and appoint the fourth chair and, after that appointment was made, it would then allocate the Garrick Chair.⁴⁷

Tarlo's appointment as head of department the year before had not gone smoothly and in 1969 he was voted out of the Dean's position and Professor KCT Sutton took over the headship. Tarlo, who continued in his chair as a professor, alleged, amongst other things, that the Garrick Chair had been offered to him and the university was not entitled to award it elsewhere. This was looked into but was refuted, although the controversy disturbed the law school and so, as mentioned below, the Garrick chair lapsed for some years.⁴⁸ Apart from tensions over the Garrick chair and interrelated to them, there was much dissatisfaction with the management of the law school over these years so that the Senate itself considered the matter, with the memorandum concerning one Senate meeting particularly noting that it was 'considered necessary to improve relationships between the Faculty of Law and the practising profession and within the Law School itself'.⁴⁹

⁴² In July 1967 the Senate appointed Mr DJ Whalan of the Australian National University, to the chair previously held by Harrison.

⁴³ See UQ archive files referred to above n 22 and 23.

⁴⁴ *Who's Who in Australia 1968*, 821. Research, including inquiry to the Melbourne University, has not revealed any other public record about Professor Sykes after his appointment to the University of Melbourne law school.

⁴⁵ *Ibid* 825.

⁴⁶ Sykes took up a position at the Melbourne University Law School. On 14 December 1967 the Senate approved that Dr KCT Sutton, senior lecturer in law, University of Sydney, be appointed to the chair of Public Law, but not the Garrick chair.

⁴⁷ UQ Archives, see above n 22 and 23.

⁴⁸ Letter from Professor Ian Zimmer, then the Head of the Law School, dated 3 June 1997; UQ Archives File No. A2668.

⁴⁹ Memo headed, 'Appointment of Select Committee – Garrick Chair of Law', 15, in File No.A136. The file contains the responses from many people who were asked to comment on Dr Ryan's abilities, amongst which is a letter dated 4 December 1963 from the outstanding legal scholar, Professor DP O'Connell, then Dean of the Faculty of Law University of Adelaide, which stated; 'In my opinion, Dr Ryan is one of the ablest academic lawyers in Australia not at present holding a chair', UQ File No.A136, 36.

VIII KW RYAN (1969-1974 AND 1979-1985)

On 25 March 1969 the Senate resolved that the recommendation of the Select Committee on the Garrick chair be approved, which was that it be 'offered to Kevin William Ryan, PhD, BA, LLB, Trade Commissioner and Commercial Counsellor, Geneva'.⁵⁰ In due course, 13 October 1969, Kevin Ryan was appointed Head of Department for five years and then he was appointed to the Garrick Chair for five years from 1 December 1969.

Ryan was born on 9 September 1925 in Melbourne and his early years were hard, including his mother dying when he was only four years of age after which he lived with his grandparents in a cafe in Warrnambool, Victoria.⁵¹ At an early age he entered the Order of the Christian Brothers, a teaching order, and taught in various places including in Mackay, Queensland and he also commenced an Arts degree at UQ part-time. He left the Christian Brothers aged 23 and, while he continued with his studies for his BA and then his LLB at UQ, he passed the Queensland Bar exams and was called to the Bar on 11 December 1950 where he practised until 1953. His brilliant intellect and the hard times in the 1950s at the Bar guided him to an academic life and he commenced teaching at the UQ law school as a qualified barrister before he had even finished his final LLB exams.

He became a full time lecturer in 1953 and gained his LLB in 1956. He then went on to Cambridge where he was awarded his PhD in 1959 before returning as a senior lecturer to the UQ law school in 1962. He became a Reader in 1964 and apart from other things over these years he taught himself numerous languages. As a result he was recruited into the Department of Foreign Affairs and Trade as the Australian Government Trade Commissioner and Commercial Counsellor in Rome in 1965. In 1966 he was transferred to Geneva, Switzerland, as part of the Australian delegation to negotiate, amongst other things, the General Agreement on Tariffs and Trade (GATT).⁵²

He was requested on behalf of a delegation from the University and the judiciary to return to the law school and he agreed, returning to Brisbane and taking an appointment, as mentioned, as dean of the law school from 13 October 1969 and the Garrick chair from 1 December for five years. When that period lapsed in 1974 there was great tension in the law school staff about this chair and the Garrick chair lapsed for five years until Ryan was reappointed to that chair again from 1979, again for five years. He was dean of the law school from 1971 to 1974. He was commissioned as a Queen's Counsel in 16 November 1978.

Ryan was, however, frustrated by tensions in the law school and decided to move on and on 1 July 1980 he became a part time member of the Queensland Law Reform Commission and from 1 November a full time member. On 1 January 1982 he was appointed a Commander of the Order of the British Empire (CBE) for his outstanding public contribution in many fields. From 1 November 1982 he commenced full time practice at the Bar in Brisbane and reverted to a part time member of the Queensland Law Reform Commission.⁵³ He was appointed as a justice of the Supreme Court on 13

⁵⁰ Senate Meeting of 25 March 1969; UQ Archives File No.A136.

⁵¹ Full details of Ryan's life are contained in White & Rahemtula (eds) *Supreme Court of Queensland Library History Program Yearbook 2009*, in a tribute on his retirement from the Supreme Court.

⁵² Ibid 121.

⁵³ He went into the same chambers as the author at his invitation, at Level 14, 239 George Street, Brisbane, after Mr Tom Shepherdson QC left them for his appointment to the Supreme Court.

February 1984 where he served until he resigned on 13 March 1994, a little before the statutory age of 70 years for retirement. Ryan was created a professor emeritus by the University and he served many years in the Australian Army legal reserve for which service he was awarded his Reserve Forces Decoration (RFD). He retired from the bench to his Brisbane home where he lived with his wife and in touch with family until he died on 17 November 2009.⁵⁴

It is difficult to be too generous in describing Ryan's abilities and achievements but they are summarised in the *Supreme Court of Queensland History Program Yearbook 2009* where tributes are paid by many colleagues in the highest terms.⁵⁵

IX G MOENS (1999-2003)

After Ryan's five year appointment the Garrick chair had lapsed again⁵⁶ until Gabriël Moens was appointed and he held the chair for five years from 14 October 1999. This restoration came about from an initiative by the then head of School, Professor AA Tarr, who wrote to the Executive Dean, Professor I Zimmer, recommending that this named chair should be restored and that the income each year from the, by then \$20,000 capital, should be paid to the Law School in reduction of the incumbent's salary. This appointment was agreed by the Executive Dean and then also the Vice Chancellor, Professor John Hay AC, and the Senate approved the appointment on 14 October 1999.⁵⁷

As to the income mentioned by Tarr, however, the bequest was to found a chair and this had been done but the costs associated with it were a running cost for the University and had been funded out of general funds and this was where the, somewhat small, interest from the \$20,000 had been paid and continued to be paid.

As already mentioned there had been over the years many tensions about this named chair and included in these were queries about who had the right to be appointed to it. These had given rise to an inquiry by a Senate Committee in 1967 and it recommended that the title 'Garrick Professor' be offered to the senior professor, which report was accepted by the Senate. The tension over appointments to this chair continued and one letter, by the late Professor RD Lumb, then Head, Department of Law, in 1974 stated that there had been 'previous acrimonious statements concerning

⁵⁴ White & Rahemtula, see above n 52. Ryan recorded his memoirs in an interview as part of the oral history program and deposited a copy in the Supreme Court library, there entitled 'Memoirs of his Hon. Professor Kevin W. Ryan CBE RFD, QC', Call No.OHC RYA.k.

⁵⁵ Tributes were written by Her Excellency Ms Quentin Bryce AC, Governor-General, the Most Reverend John Bathersby DD, Catholic Archbishop of Brisbane, Hon Justice Susan Kiefel, justice of the High Court, Justice Margaret White, Supreme Court judge (Trial Division and later of the Court of Appeal), the Hon Dr Bruce McPherson CBE, former judge of the Queensland Court of Appeal, the Hon Glen Williams AO, former judge of the Queensland Court of Appeal, Dr Rob O'Reagan AM QC, barrister and former head of the UQ school of law, Associate Professor Peter M McDermott RFD, Reader in Law, UQ and Mr Keith Wilson, barrister and son-in-law.

⁵⁶ Examples of the activities relating to the periods when no person held the chair include that in 1976 an Academic Committee meeting memo recorded that 'no appointment should be made at the present time to the Garrick Chair of Law' but that reasonable expectations were not to be denied and it should be awarded on the basis of 'academic leadership' and that the matter should be brought up to the Vice Chancellor at two yearly intervals; see Memo Report 4/76 Academic Committee; UQ File No.A2668. In 1989 Professor KCT Sutton advised of his interest in holding the chair but he was advised that appointment to that chair 'would not be considered at the present time'; Minute 3/89, dated 18 August 1989; UQ File No.71109/14800/02.

⁵⁷ Letter dated 27 August 1999; UQ Archives file CR-A2668.

the Title which had embittered relations between Professorial members of the Department' and he recommended that the title lapse, or certain other stated changes be made about it.⁵⁸

Before Moens was appointed it was raised again. There had been controversy over whether the chair was linked to the head of school, as had been the practice until the Senate inquiry, and it was suggested in 2004 that the requirement was that the chair should go to the senior professor in the law school. This was not an absolute requirement as there was nothing in the bequest to so require, as was pointed out by Mr Roger Byrom, the UQ legal officer,⁵⁹ but that had been the practice although it had lapsed and it was open to Senate to decide to appoint to whom and on such terms as it considered appropriate. In the result the question was left open and it was left to the discretion of the University management, as ratified by the University Senate, which is the present situation.

Reverting now to Professor Moens, he holds the degrees of JD, LL.M, PhD, GCED and MBA. During his time at UQ he made a major contribution in international and trade law and especially in the Willem C Vis Moot as coach and mentor. He served as Director of the Institute of Foreign and Comparative Law. In 2002 he organised the XVIth International Congress of the International Academy of Comparative Law which was held at the University of Queensland. In 1999 he won the Australian Award for University teaching in law and legal studies. He had come from Ghent, Belgium, where he qualified as a barrister in 1970, then went to the Belgian Interuniversity Centre of Public Law, the University of Salzburg, Austria, and came to Australia to the Faculty of Law, University of New South Wales in 1975.⁶⁰ He held various legal positions in NSW and elsewhere over the next 15 years and came to UQ in 1988. He was gradually promoted in the UQ law school over the years before becoming a professor in 1994 and the Garrick Professor of Law in 1999. In 2004 he resigned from UQ and took up an appointment at the University of Notre Dame Australia graduate law school, Fremantle, Western Australia. In 2005 became the dean and professor of law at Murdoch University school of law, near Perth, WA.⁶¹ He has served as a Visiting Professor of Law at various institutions, including the J Reuben Clark Law School, Brigham Young University and Loyola University, New Orleans. He currently also serves as a Fellow and Deputy Secretary-General of the Australian Centre for International Commercial Arbitration (ACICA) and Director, College of Law Western Australia. He is a *Membre Titulaire* of the International Academy of Comparative Law in Paris, and a Fellow and Chartered Arbitrator of the Chartered Institute of Arbitrators. He was knighted by His Majesty King Albert of Belgium in 1996 and was awarded the Australian Centenary Medal in 2000 for services to education.

X J ALLAN

After Moens left in 2003 the next appointment was that of James Allan, which was made by the UQ Senate from 5 February 2004. Allan was born in Toronto, Canada on 28 February 1960. His degrees are BA (Queen's University, Canada (Gold Medallist) 1982); LLB (Queen's University, Canada 1985); LL.M (London School of Economics 1986);

⁵⁸ Letter to Professor Zelman Cowen, Vice-Chancellor, dated 31 October 1974; see UQ File No.A2668. This file, No.A2668, is large and is replete with letters of complaint and responses about aspects of the Garrick chair appointments or lack of appointments. There is, however, no space to deal further with these in this article.

⁵⁹ Memo to Vice Chancellor dated 5 February 2004; file No.A2668.

⁶⁰ Murdoch University web site, www.law.murdoch.edu.au/staffs/g.moens.

⁶¹ Murdoch University webs site, above.

and PhD (University of Hong Kong, 1994). After qualifying he was admitted as a barrister and solicitor in Canada in 1982 and he has practised law at a large firm in Toronto and at the Bar in London. Before coming to UQ he had taught in Hong Kong and in Sydney and, from 1993, in Dunedin, New Zealand at the University of Otago. He has had sabbaticals at Cornell Law School and at Dalhousie Law School, the latter as the Bertha Wilson Visiting Professor in Human Rights. His primary areas of research interest are legal philosophy, constitutional law and bills of rights scepticism.⁶² Allan is the current holder as the Garrick Professor of Law.

XI CONCLUSION

It may be seen from this article that the Garrick chair is the oldest of the named professorial chairs in law at the University of Queensland, having been established in 1923 before there was even a full law school. The chair and the circumstances surrounding its being awarded or not awarded has been marked with some considerable controversy over some periods but in recent decades it has been made purely, as the Senate had wished, on merit without being particularly linked to any particular position or seniority.

⁶² UQ law school web site: available at <www.law.uq.edu.au/academic-staff/staff> at 6th December 2010.